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# Performance rights organisation

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A **performance rights organisation** (**PRO**), also known as a performing rights society, provides intermediary functions, particularly collection of **royalties**, between copyright holders and parties who wish to use copyrighted works *publicly* in locations such as shopping and dining venues. Legal consumer purchase of works, such as buying CDs from a music store, confer *private* performance rights. PROs usually only collect royalties when use of a work is incidental to an organisation's purpose. Royalties for works essential to a organisation's purpose, such as theaters and radio, are usually negotiated directly with the rights holder.

In some countries PROs are called **copyright collectives** or **copyright collecting agencies**. A copyright collective is more general than a PRO as it is not limited to performances and includes reproduction rights organisations (RROs). RROs represent works distributed via mediums such as CD, audiocassette, or computer file rather than use of works in public settings.

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## History

The first performing rights society was established in France in 1851. In the United Kingdom, the **Copyright Act 1842** was the first to protect musical compositions with the **Performing Right Society**, founded in 1914 encompassing live performances. The rights for recorded or broadcast performance are administered by the **Mechanical Copyright Protection Society**, founded in 1924. Italy introduced a performing rights society in 1882 and Germany in 1915. In the United States, **The American Society of Composers, Authors and Publishers** (ASCAP) was founded in 1914; **Society of European Stage Authors & Composers** (SESAC) in 1930 and **Broadcast Music, Inc.** (BMI) in 1939. Sociedad Puertorriqueña de Autores y Compositores de Musica (SPACEM) was founded in San Juan, Puerto Rico in 1953. SPACEM's name was changed to ACEMLA, or Asociacion de Compositoes y Editores de Musica and remains today PRO No. 76 in the CISAC's<sup>[1]</sup> roster of performing rights societies.

## Activities

Other than their primary purpose as an intermediary between rights holders and customers, PROs are highly active in legal arenas. PROs take alleged rights violators to *court*, or in the U.S., to the **Copyright Royalty Board**, of the **Library of Congress**. PROs lobby on behalf of rights holders, especially in discussions of legal royalty rates.

As a side benefit of tracking public performance of works for royalty collection, PROs publish statistics of publicly performed works.

The licensing services provided by a PRO arguably provide advantage to customers, who can simultaneously license all works the PRO represents.

## Criticisms

PROs have been criticised for charging **non-profit organisations** for their use of copyrighted music in situations where the non-profit organisation was not earning money from the use. ASCAP, for example, was eventually forced in the face of public opinion to abandon its attempts to charge the **Girl Scouts of the USA** for singing campfire songs. ASCAP's and **SESAC**'s policy of charging **non-commercial educational** (NCE) **radio stations** for playing copyrighted music has also been criticised, especially by **college radio** stations across the U.S., which rely entirely on student and listener support for funding and have difficulty affording the extra fees. Community Orchestras, which mostly play classical works in the public domain, may occasionally play a work within copyright, but are forced to pay licenses to rights societies on all concert revenues including concerts where all music is in the public domain, which is then distributed to songwriters of pop songs.

PROs are often criticised for stretching the definition of "public performance." Until relatively recently<sup>[*when?*]</sup> in the U.S., playing copyrighted music in restaurants did not involve legal issues if the media was legally purchased.<sup>[*citation needed*]</sup> PROs now demand royalties for such use.

"One exception to the rule allows businesses of a certain size (stores under 2,000 square feet, restaurants or bars under 3,750 square feet) to play music from a radio, television, or similar household device without a license, provided there are fewer than six speakers (with limits on the placement of speakers), and customers aren't charged to listen. Other exceptions include educational and charitable functions... If your business falls into one of the categories listed above (size of business, number and placement of speakers, etc.) radio/TV] you may want to check out section 110(5) of the Copyright Act. As you likely won't need a license. But, before making a decision, check with a lawyer."<sup>[2]</sup>

By discouraging performances in limited public arenas, again using the restaurant example, critics<sup>[*who?*]</sup> say PROs eliminate the free publicity such performances provide for a work thereby depressing media sales. Incidentally, lower media sales conflict with PROs, but disputes between the two parties are not known to occur since each type of organisation represents the interests of the same parties - rights owners - and are forced to work in common interest.

Rights owners – especially independents and newcomers not represented by large **publishing** companies – criticise the PROs for what they deem to be "mystical" formulas for deciding who gets what share of the total licensing revenue received. They also criticise PROs for slow or non-existent payments and excessive membership dues or service fees.<sup>[*citation needed*]</sup>

## Organisations

### International

*Further information: **List of copyright collection societies** and **Category:Copyright collection societies***

### North America

#### United States

- AIITrack** (U.S.)<sup>[3]</sup>
- ASCAP** (U.S.)
- BMI** (U.S.)
- Global Music Rights (U.S.)<sup>[4]</sup>
- SESAC** (U.S.)
- SoundExchange** (U.S.)

#### Canada

- SOCAN** (Canada)
- Re:Sound Music Licensing Company**
- CMRRA** (Canada)

#### Others

Most countries (that observe copyright) have the equivalent:

| Country  | Agencies   |
|--|--|
| <span><span></span></span> <b>Argentina</b>                | <b>SADAIC</b>  |
| <span><span></span></span> <b>Australia</b>                | <b>Australasian Performing Right Association</b> (APRA)  |
| <span><span></span></span> <b>Australia</b>                | Phonographic Performance Company of Australia (PPCA)   |
| <span><span></span></span> <b>Austria</b>                  | Autoren, Komponisten und Musikverleger (AKM)   |
| <span><span></span></span> <b>Belgium</b>                  | <b>SABAM</b>   |
| <span><span></span></span> <b>Bolivia</b>                  | Servicio Nacional de Propiedad Intellectual (SENAPI)   |
| <span><span></span></span> <b>Brazil</b>                   | ECAD (Escritório Central de Arrecadação e Distribuição)  |
| <span><span></span></span> <b>Bulgaria</b>                 | MUSICAUTHOR  |
| <span><span></span></span> <b>Canada</b>                   | <b>Society of Composers, Authors and Music Publishers of Canada</b> (SOCAN), <b>Re:Sound Music Licensing Company</b> |
| <span><span></span></span> <b>Chile</b>                    | <b>Sociedad Chilena del Derecho de Autor</b> (SCD)   |
| <span><span></span></span> <b>Colombia</b>                 | SAYCO/ACINPRO  |
| <span><span></span></span> <b>Croatia</b>                  | HDS  |
| <span><span></span></span> <b>Czech Republic</b>           | OSA  |
| <span><span></span></span> <b>Denmark</b>                  | KODA   |
| <span><span></span></span> <b>Estonia</b>                  | EAU  |
| <span><span></span></span> <b>Finland</b>                  | Teosto   |
| <span><span></span></span> <b>France</b>                   | <b>Société des auteurs, compositeurs et éditeurs de musique</b> (SACEM)  |
| <span><span></span></span> <b>Georgia</b>                  | SAS  |
| <span><span></span></span> <b>Germany</b>                  | <b>Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte</b> (GEMA)                     |
| <span><span></span></span> <b>Greece</b>                   | <b>AEPI</b>  |
| <span><span></span></span> <b>Greece</b>                   | GEA-GRAMMO, ERATO-APOLLON  |
| <span><span></span></span> <b>Hong Kong</b>                | <b>CASH</b>  |
| <span><span></span></span> <b>Hungary</b>                  | <b>ARTISJUS</b>  |
| <span><span></span></span> <b>India</b>                    | <b>The Indian Performing Right Society Ltd</b>   |
| <span><span></span></span> <b>Ireland</b>                  | <b>Irish Music Rights Organisation, Phonographic Performance Ireland</b> (PPI)                                       |
| <span><span></span></span> <b>Israel</b>                   | <b>ACUM</b>  |
| <span><span></span></span> <b>Italy</b>                    | <b>SIAE</b>  |
| <span><span></span></span> <b>Japan</b>                    | <b>JASRAC</b>  |
| <span><span></span></span> <b>Lithuania</b>                | <b>LATGA-A</b>   |
| <span><span></span></span> <b>Malaysia</b>                 | <b>MACP</b>  |
| <span><span></span></span> <b>Mexico</b>                   | <b>SACM</b>  |
| <span><span></span></span> <b>Nepal</b>                    | <b>Music Royalty Collection Society Nepal</b> (MRCSN)  |
| <span><span></span></span> <b>Netherlands</b>              | <b>BUMA</b>  |
| <span><span></span></span> <b>New Zealand</b>              | <b>APRA</b>  |
| <span><span></span></span> <b>Norway</b>                   | <b>TONO</b>  |
| <span><span></span></span> <b>Panama</b>                   | <b>SPAC</b>  |
| <span><span></span></span> <b>Peru</b>                     | <b>APDAYC</b>  |
| <span><span></span></span> <b>Philippines</b>              | <b>FILSCAP</b>   |
| <span><span></span></span> <b>Poland</b>                   | <b>ZAIKS</b>   |
| <span><span></span></span> <b>Puerto Rico</b>              | <b>ACEMLA</b>  |
| <span><span></span></span> <b>Romania</b>                  | <b>UCMR</b>  |
| <span><span></span></span> <b>Russia</b>                   | <b>RAO</b>   |
| <span><span></span></span> <b>Serbia</b>                   | <b>SOKOJ</b>   |
| <span><span></span></span> <b>Singapore</b>                | Composers and Authors Society of Singapore Ltd (COMPASS)   |
| <span><span></span></span> <b>Slovakia</b>                 | <b>SOZA</b>  |
| <span><span></span></span> <b>South Africa</b>             | <b>Southern African Music Rights Organisation</b> (SAMRO)  |
| <span><span></span></span> <b>South Korea</b>              | <b>KOMCA, KOSCAP</b> <sup><span>[</span>5<span>]</span></sup>  |
| <span><span></span></span> <b>Spain</b>                    | <b>SGAE</b>  |
| <span><span></span></span> <b>Sweden</b>                   | <b>STIM</b>  |
| <span><span></span></span> <b>Switzerland</b>              | <b>SUISA</b>   |
| <span><span></span></span> <b>Taiwan</b>                   | <b>MUST</b>  |
| <span><span></span></span> <b>Thailand</b>                 | <b>MCT</b>   |
| <span><span></span></span> <b>Trinidad and Tobago</b>      | <b>COTT</b>  |
| <span><span></span></span> <b>Ukraine</b>                  | <b>UACRR</b>   |
| <span><span></span></span> <b>United Kingdom</b>           | <b>PRS, PPL</b>  |
| <span><span></span></span> <b>United States of America</b> | <b>ASCAP, BMI, SESAC, ACEMLA (SPACEM), AIITrack</b> , Global Music Rights (GMR)                                      |
| <span><span></span></span> <b>Uruguay</b>                  | <b>AGADU</b>   |
| <span><span></span></span> <b>Venezuela</b>                | <b>SACVEN</b>  |

## State regulation and income taxes

The examples and perspective in this section **may not represent a worldwide view of the subject**. You may improve this section, discuss the issue on the talk page, or create a new section, as appropriate.  *(February 2020)* *(Learn how and when to remove this template message)*

Although the **Copyright Clause** of the United States Constitution delegates the power to establish Copyright law in the United States, in recent years, a number of States have enacted transparency laws in respect to Performing Rights Societies. These generally force Performing Rights Societies to disclose the musical works they license. Because many establishments pay blanket license fees to Performing Rights Societies but have little or no idea if the fees they pay actually secure the rights to perform musical works. This can result in unfair business practices called **tolling**. Many performing rights societies send representatives into businesses who attempt to disrupt or shut down a concert, claiming an insufficient or performing right license, and some states have banned this practice.

Moreover, states with income taxes hope to withhold royalty income for "performances" inside those states rather than in the state where a composer/songwriter lives or the Performing Rights Society is located. In practice, state income tax accounting is very difficult to regulate. Notable is Colorado's law, which requires each Performing Rights Society to disclose its entire catalog.

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Categories:  Music licensing |  Music licensing organizations |  Copyright collection societies

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